



PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 59864.00654
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on _____</p> <p>Signature _____</p> <p>Typed or printed Name _____</p>		Application Number: 09/990,331 Filed: November 23, 2001 First Named Inventor: Benoist SEBIRE Art Unit: 2662 Examiner: Cho, Hong Sol

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the



Signature

Applicant/Inventor.

David E. Brown

assignee of record of the entire interest.
See 37 CFR 3.71. Statement under
37 CFR 3.73(b) is enclosed

Typed or printed name

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Reg. No. is acting under 37 CFR 1.34 _____

January 9, 2006

Date

NOTE: Signatures of all of the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

*Total of 1 form is submitted.



PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Benoist SEBIRE

Art Unit: 2662

Application No.: 09/990,331

Examiner: CHO, Hong Sol

Filed: November 23, 2001

Attorney Dkt. No.: 59864.00654

For: METHOD AND APPARATUS TO TRANSMIT PACKETS USING TWO RADIO BEARERS

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

January 9, 2006

Sir:

Applicants respectfully request a review of the final rejections set forth in the final Office Action dated September 13, 2005, and as further maintained in the Advisory Action of September 14, 2005, finally rejecting claims 32-35. Applicants submit that a *prima facie* case for obviousness has not been established, and that there is clear error with regard to at least one element of each of the independent claims.

The Final Office Action rejected claims 21-35 under 35 U.S.C. 103(a) as being obvious over US Publication No 2003/0081592 to Krishnarajah (Krishnarajah), in view of the publication entitled “UDP Lite for Real-Time Multimedia Application” by Larzon et al. (Larzon). The Office Action took the position that Krishnarajah disclosed all of the features of the pending claims with the exception of the feature of classifying based on

data in the checksum coverage field of the UDP packet, which is allegedly disclosed by Larzon.

Applicants respectfully submit that there is clear error in that the combination of Krishnarajah and Larzon fails to disclose or suggest all of the elements of the presently pending claims.

Applicants respectfully submit that the combination of Krishnarajah and Larzon fail to disclose or suggest the element of classifying one of the first part and the second part differently, the classifying being based on data in a checksum coverage field of the packet as recited in claims 21 and similarly recited in claims 28 and 32. The Office Action took the position that Krishnarajah disclosed all of the features of the pending claims with the feature of classifying based on data in the checksum coverage field of the UDP packet, which is allegedly disclosed in Larzon. Applicants respectfully submit that the failure of the prior art to disclose or suggest this feature constitutes clear error in the rejection of the pending claims.

Krishnarajah is directed to a method and apparatus for transporting different classes of data bits in a payload over a radio interface. Paragraph [0036] of Krishnarajah describes dividing the payload into different groups of bits based on different classes of bits included in the data frame/payload. The Office Action admits that Krishnarajah fails to disclose the feature of the classifying being based on data in a checksum coverage field of said packet.

Larzon is directed to a method for utilizing UDP in order to add checksum to IP to allow damaged packets to be delivered. The method is called “UDP Lite”. According to

Larzon, the UDP Lite header carries information about how many bytes, from the beginning of the packet, are included in the checksum calculation. In section 2.1 of Larzon the coverage field specifies how many bytes are sensitive, and section 2.2 discloses that the senders specify packets as partially insensitive to errors. Thus, Larzon merely discloses that the determination as to whether a portion of a packet is sensitive (alleged classification), is already determined before it is indicated as being sensitive in the checksum coverage field. Thus, Larzon discloses that the checksum field is an indication of the portion of the packet that is sensitive, and does not disclose or suggest that the classification is based on the data in the checksum coverage field.

On the other hand, the pending claims clearly recite that the classification of the packet is based on the data in the checksum coverage field. In other words, in the present invention the checksum field determines the classification of the datapackets. Therefore, Applicants respectfully submit that Larzon does not cure the admitted deficiencies of Krishnarajah as alleged in the Final Office Action. Therefore, the prior art fails to disclose or suggest all of the features of the pending claims, which constitutes clear error in the rejection of the pending claims.

Applicants respectfully assert that there is clear error in that the Office Action has failed to establish a *prima facie* rejection for obviousness, as the combination of the cited references do not disclose or suggest all of the elements of the presently pending claims. Therefore, for at least the reasons discussed above, Applicants respectfully request that the rejection of claims 21, 28 and 32 over Krishnarajah and Larzon be reconsidered and

withdrawn. Additionally, the dependent claims should be allowable for at least the same reasons as claims 21, 28 and 32.

In the event that any additional fees are due with respect to the filing of this paper, Applicants request that any deficiency be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,



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Enclosures: Notice of Appeal
Form PTO/SB/33
Petition for Extension of Time
Check No. 13866